



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

APR 29 2002

OFFICE OF  
CIVIL RIGHTS

**RETURN RECEIPT REQUESTED**  
**Cert. No. 7000-1530-0006-1729-7536**

**In Reply Refer to:**  
**EPA File No. 03S-02-R10**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**Re: REJECTION OF ADMINISTRATIVE COMPLAINT**

Dear [REDACTED]:

This letter responds to your March 1, 2002, letter concerning a civil rights complaint against the City of Portland, Oregon, Bureau of Environmental Services (BES). The complaint alleges that BES discriminated against [REDACTED], "a woman owned and U.S. SBA certified 8(a) firm," in contracting for three public utility projects (the Southwest Parallel Interceptor Project, the Fanno Creek Water Quality Improvement Project, and the Umatilla Pump Station Upgrade Project) in violation of Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d *et seq.*, (Title VI); Section 13 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1251 nt., (Section 13); and the Civil Rights Restoration Act of 1987, Pub. L. No. 100-259, (Civil Rights Restoration Act).

Title VI only prohibits discrimination based on race, color or national origin, and not discrimination on the basis of sex. Neither Section 13 nor the Civil Rights Restoration Act amended Title VI to include sex as a prohibited basis of discrimination. Section 13, however, does prohibit sex discrimination in programs or activities that receive Federal financial assistance under the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.*, or the Environmental Financing Act, 33 U.S.C. § 1281 *et seq.*

The U.S. Environmental Protection Agency's (EPA) nondiscrimination regulations are published in the Code of Federal Regulations at 40 C.F.R. Part 7. To be accepted for investigation, a discrimination complaint must meet the requirements in EPA's nondiscrimination regulations at 40 C.F.R. § 7.120. First, it must be in writing. Second, it must describe an alleged discriminatory act prohibited by the regulations (in the case of Section 13,

discrimination on the basis of sex). Third, it must be filed within 180 days of the alleged discriminatory act. And, finally, it must be filed against a program or activity that received financial assistance from EPA (in the case of Section 13, Federal financial assistance under the Federal Water Pollution Control Act or the Environmental Financing Act).

EPA's Office of Civil Rights (OCR) received the complaint on March 6, 2002. For the complaint to have been timely, the alleged discriminatory acts would have had to have occurred after September 7, 2001. The incidents associated with the Southwest Parallel Interceptor Project occurred in 1999. The incidents associated with the Fanno Creek Water Quality Improvement Project occurred in 2000 and the first half of 2001. The incidents associated with the Umatilla Pump Station Upgrade Project describe a contract dispute originating in 2000 and terminating no later than June 2001. Efforts to resolve the dispute (not just with BES staff, but also with the director of BES, the Mayor of the City of Portland, and the City Attorney) reached an impasse in February 2002. While EPA's nondiscrimination regulations encourage complainants to use appeals or grievance processes, however, using such processes does not extend the deadline for filing administrative complaints. Accordingly, after careful review, OCR has concluded that it cannot accept your complaint for investigation because it was filed more than 180 days after the alleged discriminatory acts.

If you have questions, please contact Mike Mattheisen in OCR at telephone number 202-564-7272 or at the above address (Mail Code 1201A).

Sincerely,

  
Karen Higginbotham  
Acting Director

cc: Rafael DeLeon  
Associate General Counsel  
Civil Rights Law Office  
Office of General Counsel (MC 2399A)

Monica Kirk  
Title VI Contact  
EPA Region 10